

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1997

§6816. Permitted operations before formal approval

A viatical settlement provider or independent viatical producer that is currently acting lawfully in this State may continue to operate pending approval or disapproval of the applicant's license under this chapter if an application is filed with the superintendent pursuant to this chapter prior to January 1, 1998.

Sec. 2. Effective date. This Act takes effect October 1, 1997.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1997-98	1998-99
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Bureau of Insurance		
Positions - Legislative Count	(.500)	(.500)
Personal Services	\$14,995	\$20,993
All Other	8,791	5,821
Allocates funds for one additional half-time Senior Insurance Analyst position and necessary operating costs to administer certain regulatory responsibilities pertaining to viatical companies.		
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION		
TOTAL	\$23,786	\$26,814

Effective October 1, 1997.

CHAPTER 431

H.P. 24 - L.D. 49

An Act to Exempt Contract Dance Instructors and National Service Volunteers from the Unemployment Tax

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Maine communities presently benefit from the community service performed by state citizens participating in national service programs

funded by the federal agency known as the Corporation for National Service; and

Whereas, national service participants in AmeriCorps*USA, AmeriCorps*VISTA, Learn and Service America Students and Senior Corps not only help communities carry out projects that would remain undone were it not for the assistance of national service but also engage local citizens as volunteers to build the communities' capacity to sustain the service project; and

Whereas, some national service programs require a time commitment that precludes employment and, therefore, make it possible for citizens of all socioeconomic backgrounds to serve their communities by providing a modest living allowance; and

Whereas, national service participants in AmeriCorps*USA and AmeriCorps*VISTA become eligible for educational awards held in trust under the system established by the federal National and Community Service Trust Act of 1993; and

Whereas, the federal laws and regulations pertaining to national service programs clearly state that national service participants are not employees, are not serving for the purpose of gaining employment skills and may not displace workers and that national service participants are not eligible to collect unemployment benefits from the federal system under a determination by the United States Department of Labor; and

Whereas, under the standards of Maine law, the stipend and educational award have been determined to be compensation; and

Whereas, this discrepancy creates a fiscal impact for the State which not only benefits from the service activities of these volunteers but also administers national service programs; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §1043, sub-§11, ¶F, as corrected by RR 1995, c. 2, §62, is amended by amending subparagraphs (38) and (39) to read:

(38) Services performed by a person licensed as a guide as required by Title 12, section 7311, as long as that employment is

not subject to federal unemployment tax;
and

(39) Services performed by a direct seller as defined in 26 United States Code, Section 3508, Subsection (b), Paragraph (2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property;

Sec. 2. 26 MRSA §1043, sub-§11, ¶F, as corrected by RR 1995, c. 2, §62, is amended by adding 2 new subparagraphs to read:

(40) Services provided by a dance instructor to students of a dance studio when there is a contract between the instructor and the studio under which the instructor's services are not offered exclusively to the studio, the studio does not control the scheduling of the days and times of classes other than beginning and end dates, the instructor is paid by the class and not on an hourly or salary basis, the compensation rate is the result of negotiation between the instructor and the studio and the instructor is given the freedom to develop the curriculum; and

(41) Services performed by participants enrolled in programs or projects under the national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq., and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 10, 1997.

CHAPTER 432

S.P. 520 - L.D. 1604

An Act to Revise Certain Provisions of Fish and Wildlife Laws

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, confusion exists as to the application of certain laws administered by the Department of Inland Fisheries and Wildlife; and

Whereas, this confusion poses difficulties for the sporting public and those charged with enforcement of these laws; and

Whereas, it is vitally necessary that this confusion be resolved to prevent any injustice or hardship to the hunters, anglers, trappers and recreational vehicle owners of the State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §7001, sub-§10-A is enacted to read:

10-A. Fishway. "Fishway" means an artificial device, including fish elevators, fish locks and fish ladders, used to enable fish to migrate upstream past dams, waterfalls, rapids or other obstacles.

Sec. 2. 12 MRSA §7001, sub-§15-A is enacted to read:

15-A. Hunting equipment. "Hunting equipment" means the following:

A. Firearms of any type that are permitted under the laws governing hunting, including muzzle-loading firearms; or

B. Archery equipment that is permitted under the hunting laws governing archery, including, but not limited to, recurved bows and compound bows.

Sec. 3. 12 MRSA §7001, sub-§39-A, as enacted by PL 1995, c. 536, Pt. B, §1, is amended to read:

39-A. Weir. "Weir" means a ~~structure~~ device placed in the inland waters of a river, stream or brook that is designed to entrap fish and that exceeds more than 1/3 of the wetted width of the channel.

Sec. 4. 12 MRSA §7035, sub-§4, ¶E is enacted to read:

E. The commissioner may recover all costs directly related to a specific search and rescue operation:

(1) From the person for whom the search and rescue operation was conducted; or